

DAC



IN THE UNITED STATES PATENT AND
TRADEMARK OFFICE

Ser. No. 09/40203 Date: 6/22/01
Filed: 9/29/97
Applicant: William Possidento
Title: DISTILLATION DEVICE
Group Art Unit: 1764
Examiner: V Manoharan

Wan Laymon
Office for the Deputy Commissioner
for Patent Examination Policy

Office of Petitions
2201 So. Clark Place
Crystal Plaza 4
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Arlington, VA. 22202

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**RENEWED PETITION TO REVIVE AN UNINTENTIONALLY ABANDONED
APPLICATION UNDER 37 CFR 1.137**

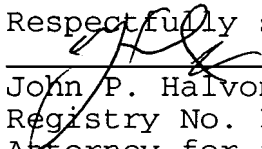
Dear Examiner Laymon;

This is in response to the letter mailed 5/8/01, see copy
attached.

The entire delay in filing the required reply from the due
date for the reply in the above case, to the filing of the
petition (3/6/01) was unintentional.

We therefore, respectfully request that the present application be restored to its prior status with allowable subject matter and/or claims pursuant to the enclosed letter.

Respectfully submitted,



John P. Halvonik
Registry No. 32,796
Attorney for applicant

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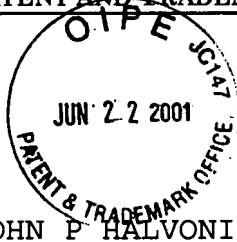
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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**SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS**

ON PETITION

In re Application of :
William Possidento :
Application No. 08/940,203 :
Filed: September 29, 1997 :
Attorney Docket No. NONE :

This is a decision on the petition under 37 CFR 1.137(b), filed March 6, 2001, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed August 29, 2000, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on October 30, 2000.

A grantable petition under 37 CFR 1.137(b)¹ must be accompanied by: (1) the required reply,² unless previously filed; (2) the

¹ As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

² In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item (3).

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the petition lacks the required statement, therefor, this petition must be dismissed.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By facsimile: (703) 308-6916
Attn: Office of Petitions

By hand: Office of Petitions
2201 South Clark Place
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Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.


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